

OFFICE OF THE ATTORNEY GENERAL



94-00157

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ATTORNEY GENERAL
STATE OF ALABAMA

APR 28 1994

ALABAMA STATE HOUSE
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MONTGOMERY, ALABAMA 36130
AREA (205) 242-7300

Honorable Lanelle Beadlescomb
Mayor, Town of Billingsley
P. O. Box 170
Billingsley, AL 36006

Municipalities - Water and
Sewage - Water and Sewer
Boards - Offices and Officers
- Conflicts of Interest

Town may pay for goods and
services received under either
legal theory of quantum meruit
or in settlement of pending
litigation.

Dear Mayor Beadlescomb:

This opinion is issued in response to your request for
an opinion from the Attorney General.

QUESTION

Please advise as to the contract, if
this is a legal contract. Should I pay
this and, also, is it legal for him to be
paid for services?

FACTS AND ANALYSIS

Your request presents the following facts:

Ralph Mims served on the Billingsley
Water System Board, an unincorporated
system, owned by the town, since 1983.
Mr. Mims, also, owns Mims Wood Company,

Inc., with family members. He has been receiving monies for installing water meters and repair work. He has been collecting money, billed by the town water system, through this contract (attached) at the sum of \$360.00 per user as they connect to the system.

As of 12/3/93 he is no longer on the Board, as we voted to set up a water committee.

I believe Mr. Mims will try to file a lawsuit, and I need an opinion from your office.

Because Mr. Mims is no longer on the water board, any questions of conflicts of interest are moot. We assume that the town followed correct legal procedures in abolishing its unincorporated board and establishing a committee to administer the water system.

Even if the contract between the town and Mims Wood Company had been improper because of a conflict of interest (and we do not here have sufficient facts to make such a determination), the fact remains that since 1989 Mims Wood Company, Inc., has done work for the town. The contract in question basically permitted Mims Wood Company, Inc., to connect to the city water line and to secure new patrons for the system. Mims Wood Company was responsible for getting approval from ADEM, FHA and the Autauga County Health Department. Mims Wood Company was responsible for the engineering costs, and the cost of the pipe, installations and connections. Mims was reimbursed for its costs from the \$400 charged to new customers.

There is a legal theory known as quantum meruit which requires payment for goods received and services rendered. Basically, it means that the town cannot profit from the receipt of these goods and services without paying for them.

Stated differently, if the town has, in fact, received goods and services from Mims Wood Company, Inc., it is legally responsible for paying for the value of those goods and services. Alternatively, payment could be made in settlement of pending litigation.

Honorable Lanelle Beadlescomb
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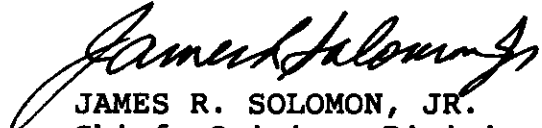
CONCLUSION

The Town of Billingsley may pay for goods and services received under either legal theory of quantum meruit or in settlement of pending litigation.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

JE/CJS/jho
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